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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

May 7, 1993

Office of the Secretary
Federal Communications Commission
Washington DC 20554

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Policies and Rules Concerning
Children's Television Programming

Revision of Programming Policies
for Television Broadcast Stations

MM Docket No. 93-48

COMMENTS OF
THE AMERICAN PSYCHOLOGICAL ASSOCIATION

The Children's Television Act of 1990 (P.L. 101-437) established the requirement that in considering an application for renewal of a television broadcast license, the Commission must evaluate and weigh the extent to which the licensee "has served the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs" (Section 4.a of the Act). The Commission has raised several important issues related to the implementation of the Act, generally, and the evaluation of broadcasters' compliance with the programming obligation portion of the Act, specifically, in the above referenced Notice of Inquiry.

The American Psychological Association (hereinafter "APA") commends the Commission for seeking public comment on the variety of issues relating to licensees' obligations under the Children's Television Act of 1990. APA's interests in these matters stem from the fact that psychologists have conducted considerable amounts of research on matters directly pertinent to some of the policy questions related to children's educational and informational programming. APA has filed comments in each of the preceding rulemaking

efforts stemming from the enactment of the Children's Television Act of 1990.

Reliance on standard-length programming

APA agrees with the Commission's statement in the current Notice that "broadcasters should place their primary reliance in establishing compliance with the CTA on standard-length programming that is specifically designed to serve the educational and informational needs of children, and should accord short-segment programming secondary importance in this regard." Indeed, APA, joined by the American Academy of Pediatrics and the National Parents-Teachers Association, filed a petition for reconsideration with the Commission on May 10, 1991 in response to the Commission's Report and Order of April 12, 1991 (FCC 91-113) in which we objected to the Commission's ruling that short-segment programming such as PSAs and vignettes would be considered as evidence of substantial or complete fulfillment of licensees' programming obligations under the Children's Television Act.

The Commission is correct in its reasoning that reliance on short-segment programming such as PSAs and vignettes would undermine Congress' intention to make educational and informational programming more readily available to families for the simple reason that such programming is not scheduled at predictable times. The Commission's original support for short-segment programming was predicated on the belief that children possess short attention spans and, as such, would be better served by brief presentations of educational and informational material.

Such material is well suited to children's short attention spans and can often be locally produced with acceptable production quality. It thus may be a particularly appropriate

way for a local broadcaster to respond to specific children's concerns.

(Report and Order, April 12, 1991, at para. 25)

As we demonstrated in our May 10, 1991 Petition for Reconsideration, this rationale is inconsistent with a substantial body of research which documents the process by which children, including preschool children, watch and learn from television.¹ The past two decades have witnessed a revolution in our understanding of children's cognitive abilities, leading to the conclusion that infants and children are substantially more competent thinkers than researchers once believed.² Consequently, extended "lessons" can be presented on television to benefit even the youngest child-viewers. The key element in the success of such efforts is the proper tailoring of the content to match the audience's particular educational needs and cognitive capabilities.

In summary, short segment programming should play only a minor role in broadcast licensees' efforts to fulfill their programming obligations under the Children's Television Act. Short-segment programming severely underestimates the capabilities of the child-viewer, and to the extent that licensees rely on such programming, they significantly diminish the learning opportunities and outcomes for children.

¹See D. Anderson & P. Collins, The impact on children's education: Television's influence on cognitive development, U.S. Dept. of Education, April 1988 for a review

²See R.S. Siegler (1991). Children's thinking. NY: Prentice-Hall; J.H. Flavell (1992). Cognitive development: Past, present, and future. Developmental Psychology, 28, 998-1005.

"Core" children's programming

According to the Notice of Inquiry, the Commission's own "informal comparison of the children's television programming listed in recently filed renewal application exhibits" with Congressional intent as expressed in the committee reports³ indicates that there has been "little change in available programming that addresses the needs of the child audience." This impression is corroborated by a study conducted by the Center for Media Education and the Institute for Public Representation⁴ (hereinafter, CME/IPR), which found little in the way of programming which could be considered to have been specifically designed to meet the educational and informational needs of children. Similar conclusions were drawn by several witnesses at a recent oversight hearing held by the House Subcommittee on Telecommunications and Finance.⁵

APA concurs with the Commission's proposal to clarify the definition of qualifying "core" programming. Core programming should consist of standard-length programming which is explicitly and primarily designed to serve the educational and informational needs of children. The educational and informational content of such programming should be the centerpiece of the programming, not an afterthought or appendage. The educational and

³See, in particular, Senate Committee on Commerce, Science, and Transportation, Children's Television Act of 1989, S. Rept. 101-227, November 22, 1989.

⁴Center for Media Education, and Institute for Public Representation (September 29, 1992). A report on station compliance with the Children's Television Act. Washington, DC: Georgetown University Law Center.

⁵House Subcommittee on Telecommunications and Finance, Oversight hearing on the implementation of the Children's Television Act of 1990, 103rd Congress, 1st Session.

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informational content must not be concentrated at the beginning or end of the programming; it should be woven throughout and be intrinsic to the very nature of the programming.

While the Commission has not raised the issue of the broadcast time of core programming in the current Notice, the issue is essential to the fundamental goals of the Children's Television Act. The CME/IPR study found that a very substantial portion of new educational programs reported by licensees aired between 5:30 and 7:00 a.m. If the Commission permits broadcasters to relegate core educational and informational programming to timeslots infrequently viewed by children, the fundamental intent of the programming requirement is undermined. APA urges the Commission to establish a time period within which core programs must fall. While research on the viewing patterns of children and adolescents is relatively scant,⁶ it would seem reasonable to consider programs broadcast between the hours of 7:00 a.m. and 9:00 p.m. as eligible for meeting broadcasters' core programming obligation.

Public notice

Broadcasters and the Commission have been subjected to considerable criticism in recent months following the disclosure that some licensees were claiming programs such as "The Jetson's," "G.I. Joe," "Teenage Mutant Ninja Turtles," and "The Flintstones" as fulfilling their educational programming obligation. The Commission should use this opportunity to

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proposals dealing with defining core programming and establishing clear staff processing guidelines represent substantial improvements on the thoroughly flawed definitions and record-keeping and evaluation procedures currently in place, but can be further improved.

One proposal which could considerably empower the public in their effort to seek out educational and informational programming for their child-viewers and at the same time evaluate their local broadcasters' compliance with the Children's Television Act involves requiring broadcasters to provide advance notice to the public of the programming that each broadcaster is offering in partial fulfillment of its core programming requirement. Public notification could be accomplished through the specification of core program offerings in local TV listings.

Public notification could help accomplish two important policy goals. First, prior notification can assist parents in selecting programming for their children's viewing. Many parents may well desire to encourage their children to view educationally oriented programming but may have little knowledge regarding which programs are deemed by broadcasters to be educational. Second, prior notification can assist the public in evaluating the performance of their local broadcasters in complying with the spirit and the letter of the Children's Television Act. By requiring broadcasters to inform the public on an ongoing basis of their efforts to serve the educational and informational needs of children, the Commission can foster communication between broadcasters and the viewing public. The public, if appropriately informed about the law and the actions of broadcasters to comply with the law, can assist both broadcasters and the Commission in addressing concerns prior to the

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point where those concerns might be raised in the context of license renewal. Thus, APA strongly urges the Commission to implement rules requiring that broadcasters provide the public with advance notification of programming intended to meet the Commission's definition of core programming.

Formal monitoring

The issues raised by the Commission in the current Notice are strikingly similar to those raised by the Commission over two decades ago in Docket No. 19142.⁷ Due in large part to the complexity of the issues involved, the Commission then took the unusual step of keeping Docket 19142 open in order to monitor compliance. That docket remained open until 1983. Additionally, in 1976 the Commission established a Children's Television Task Force to further investigate compliance with existing regulations as well as an array of developing policy questions related to children's television.

The current Commission would do well to follow suit and (1) leave Docket No. 93-48 open, sending an explicit message to the broadcast industry that compliance is expected and will be continually assessed; and (2) establish a staff working group on children's television that would be asked to monitor compliance on an ongoing basis and determine future Commission needs for information related to developing policy questions.

⁷See Children's Television Programs, Notice of Inquiry and Notice of Proposed Rulemaking, 36 Fed. Reg. 1429 (1971). For a description of the history of this NOI/NPRM, see D. Kunkel & B. Watkins (1987). Evolution of children's television regulatory policy. Journal of Broadcasting and Electronic Media, 31, 367-389; and B. Watkins (1987). Improving educational and informational television for children: When the marketplace fails. Yale Law and Policy Review, 5, 345-381.

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Conclusion

The enactment of the Children's Television Act of 1990 reflected, first and foremost, Congress' and the public's concern with the failure of broadcasters to provide appropriate quantities of educational and informational programming specifically designed to meet the needs of preschool and school-aged children and adolescents. Congress clearly indicated its discontent with the failure of broadcasters to fulfill their public interest obligations to this viewing segment. In its recent oversight hearings evaluating the implementation of the Children's Television Act, Congress expressed its continued frustration with the broadcasters for failing to respond to either the letter or the spirit of this law. Congress also directed its ire at the Commission for its perceived complicity in this failure. It is now incumbent upon the Commission to establish regulations which will spur meaningful growth in the amount and quality of educational and informational programming available to children. The proposals offered by the Commission in the current Notice, along with the suggestions contained herein, would go far in addressing the problems triggering this Notice.

Respectfully submitted,

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